

Rejections under 35 U.S.C. § 103(a)

The Examiner rejects Claims 1-41 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,923,667 issued to Poiraud *et al.* (Poiraud) in view of U.S. Patent No. 6,064,671 issued to Killian (Killian). Applicants respectfully traverse this rejection.

As to Poiraud, Poiraud was filed on February 27, 1997 and issued on July 13, 1999. Applicants conceived the invention claimed in the above referenced patent application in June 1996. Applicants prepared an internal company document dated August 28, 1996. Applicants conception therefore predates the filing date of Poiraud. A declaration by one of the named inventors setting forth these and other pertinent facts pursuant to 37 CFR §1.131 dated December 1, 2000 was filed on December 1, 2000. Because Applicants conceived the invention claimed in the above referenced patent application before the filing date of Poiraud, pursuant to 37 CFR §1.131, Applicants hereby request that all rejections based in whole or in part on Poiraud be withdrawn. As all rejections rely on Poiraud, Applicants therefore request that rejections to all claims be withdrawn.

It is axiomatic that for a claim to be obvious in view of a combination of references, all of the limitations in the claim must be taught by the combination of references. Because all of the obviousness objections made by the Examiner are based on the combination of Poiraud and Killian, and because Poiraud may not be used as a reference according to 37 CFR §1.131, the obviousness rejections to all of the claims fail. Applicants request that the 35 U.S.C. § 103(a) obviousness rejections to all claims be withdrawn.

More specifically, as to Claim 1, the Examiner asserts that Poiraud discloses a method for interconnecting a first device and a second device in a network, comprising connecting the first device and the second device to a plurality of interfaces, and emulating a single high speed interface with the plurality of interfaces. Without commenting on the merits of the Examiner's assertion, as set forth above, pursuant to 37 CFR §1.131, Poiraud cannot be used a prior art to disclose these limitations. Killian does not cure this deficiency. Moreover, Killian alone fails to

teach or suggest all of the limitations recited in Claim 1. As such, the obviousness rejections to Claim 1 and all claims depending thereon have been overcome, and the rejections should be withdrawn. Therefore, Claim 1 and all claims depending thereon are patentable over the cited prior art.

In addition to the foregoing basis for overcoming the rejections under 35 U.S.C. § 103, Applicants note the following differences between the invention as claimed and the prior art cited by the Examiner. As to Killian, the examiner asserts that Killian discloses a method for increasing computer network bandwidth through a single high speed communication link (Killian, col. 24, line 20) wherein the plurality of interfaces have a different identifier. (Killian col. 27, line 55). However, as to the high speed communication link referenced by the Examiner, Killian only teaches a T1 line. In addition, the Examiner's reference to a portion of Killian that the Examiner asserts teaches the plurality of interfaces having different identifiers is a reference to a portion of a claim not directly related to the single high speed communication link. The referenced portions of Killian in no way teach or suggest assigning to said plurality of interfaces an associated identifier that identifies the connection between said first and second devices (which the Examiner admits is neither taught nor suggested by Poiraud). As such, even if Poiraud were *in arguendo* valid prior art, Killian fails to cure the deficiencies of Poiraud.

Moreover, *in arguendo*, even if Poiraud were proper prior art, the portion of Poiraud cited by the Examiner fails to teach emulating a high speed interface as asserted by the Examiner. (Poiraud, col. 2, lines 40-45). This portion of Poiraud teaches nothing related to what the Examiner states it does.

Further, the combination of any one reference that teaches "emulating" with another reference that teaches "assigning" is improper. For Example, the Examiner asserts that Killian teaches assigning to said plurality of interfaces an associated identifier that identifies the connection between said first and second devices. Even if this assertion were true, and Applicants believe it is not, it is wholly impractical to attempt to combine such a generic

teaching of “assigning” with a teaching of “emulating”, as a reference must disclose “emulating by assigning” as recited in claim 1 to serve as sufficient prior art. That is, a system or method that achieves “emulating” and does not perform the emulation by “assigning” cannot logically be combined with a reference that teaches assigning identifiers to communications lines to create the limitation recited in Claim 1. The relationship of “assigning” to achieve the “emulation” must necessarily be taught as it is recited in Claim 1 in a single reference, as no two references can be combined to achieve this. References cannot be combined piecemeal in an illogical fashion to accomplish the “emulating by assigning” limitation recited in claim 1. Therefore, Claim 1 and all claims depending thereon are patentable over the cited prior art.

With regard to Claims 14, 19, 24, 32, 38, 39, 40 and 40, the examiner asserts that Claims 14, 19, 24, 32, 38, 39, 40 and 40 are rejected for the same rationale as set forth regarding Claim 1. While Applicants do not agree that all of these claims contain the limitations set forth in Claim 1, to the extent the Examiner applies arguments to reject these claims from the Examiner’s rejection of Claim 1, the above remarks regarding Claim 1 apply to Claims 14, 19, 24, 32, 38, 39, 40 and 41. For the reasons set forth above regarding Claim 1, Claims 14, 19, 24, 32, 38, 39, 40 and 41, and all claims depending thereon, are patentable over the cited references. As such, the obviousness rejections to Claims 14, 19, 24, 32, 38, 39, 40 and 41, and all claims depending thereon have been overcome, and the rejections should be withdrawn.

As to Claim 6, the Examiner asserts that the combination of Killian and Poiraud teach the various limitations recited in the claim. However, as set forth above, because Poiraud cannot be used as prior art to provide any of the limitations set forth in the claim, and because Killian does not supply these missing teachings, the cited references fail to teach or suggest the limitations recited in Claim 6. In addition, the Examiner baldly asserts that Killian discloses unspecified elements of assigning a first identifier to a first interface and a second interface at the first device, and identifying a path between the first device and the second device. However, the Examiner fails to show where and whether Killian teaches any of the structure and arrangement

of these elements and related actions to disclose any of the limitations recited in claim 6.

Therefore, Claim 6 and all claims depending thereon are patentable over the cited references. As such, the obviousness rejections to Claim 6 and all claims depending thereon have been overcome, and the rejections should be withdrawn.


CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record and are in condition for allowance; such action is earnestly solicited at the earliest possible date.

Respectfully submitted,

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